

CHAPTER 1. GENERAL CODE PROVISIONS AND ADMINISTRATION

Section 100 - City Code; Penalties for Violation

100.01 Title. This Code may be cited as the "Edina City Code" and is sometimes referred to in the Edina City Code as "this Code" or "the Code". Reference to the Code or to any chapter, section, subsection, subdivision or other provision shall be deemed to include amendments and additions to the Code, or to any such chapter, section, subsection, subdivision or other provision.

100.02 Numbering System. This Code is divided into general subject areas by numerical chapters which are further divided into sections. Each section number of this Code consists of two parts separated by a decimal point. The digits preceding the decimal point indicate the section number of the chapter. The digits following the decimal point indicate the subsection. Subdivisions under a subsection are denominated as such.

100.03 Enactment of Ordinances. Ordinances shall be enacted and adopted according to the procedures of M.S. 412 and Subsections 115.09 and 115.10 of this Code. All ordinances shall be integrated into this Code as provided in Subsection 100.04.

100.04 Amendments, Additions and Corrections. Ordinances proposing additions or amendments to the Code shall be assigned appropriate Code numbers and shall be incorporated into the Code as of their effective date. When an ordinance is integrated into the Code, there may be omitted from the ordinance the title, enacting clause, section numbers, definitions of terms identical to those contained in this Code, the clause indicating date of adoption, and validating signatures and dates. The Clerk, in cooperation with the City Attorney, may correct obvious grammatical, punctuation, and spelling errors, correct obvious errors in references to State Law or provisions of this Code, rearrange and consolidate provisions of this Code and perform like actions to ensure a uniform, well organized and accurate Code so long as the meaning of this Code is not altered.

100.05 Headings and Index. Chapter, section, subdivision and other titles are not considered part of the subject matter of this Code but are intended only for convenient reference and shall not be considered in interpreting this Code except where terms are defined and the title is necessary to be used to determine the term being defined. The indexing system is not a part of the subject matter of this Code but is intended only to facilitate access to Code sections. The history notes and references at the end of any chapter or section are not a part of this Code, but are intended for convenient reference and information and shall not be considered in interpreting this Code.

100.06 Availability to the Public. Copies of the Code shall be kept in the office of the Clerk for public inspection. Copies may be purchased for a reasonable charge.

100.07 Existing Rights and Liabilities. The repeal of prior ordinances and the adoption of this Code are not to be construed in any manner to affect the rights and liabilities existing at the time of repeal and enactment of this Code. Insofar as provisions in this Code are substantially the same as ordinances in effect at the time of initial adoption of this Code, they will be considered as continuations and not new enactments. Any act done, offense committed, right accruing, liability, penalty, forfeiture or punishment occurring, incurred or assessed prior to the effective date of this Code is not affected by the enactment of this Code.

100.08 Severability. If any section, subsection, subdivision, paragraph, subparagraph, sentence, clause or phrase of this Code is held to be invalid or unenforceable by any court of competent jurisdiction as to any person or circumstance, the application of such section, subsection, subdivision, paragraph, subparagraph, sentence, clause, or phrase to persons or circumstances other than those to which it shall be held invalid or unenforceable, shall not be affected thereby, and all other provisions of this Code, in all other respects, shall be and remain valid and enforceable.

100.09 Penalties.

Subd. 1 **Petty Misdemeanors.** Whenever an act or omission is declared in this Code to be a petty misdemeanor, any person violating the provision will, upon conviction, be subject to a fine of not more than \$200. The cost of prosecution may be added to the penalty imposed on every person convicted of violating any provision of this Code.

Subd. 2 **Misdemeanors.** In any case other than those in which a violation is expressly stated to be a petty misdemeanor in this Code, any person violating any provision of this Code, or any rule or regulation adopted under this Code will, upon conviction, be guilty of a misdemeanor, and be subject to a fine of not more than \$700 or imprisonment for a term not to exceed 90 days or both, plus, in either case, the cost of prosecution. The cost of prosecution may be added to the penalty imposed on every person convicted of violating any provision of this Code.

Subd. 3 **Separate Violations.** Unless otherwise provided, each act of violation and every day on which a violation occurs or continues, constitutes a separate offense.

Subd. 4 **Application to City Personnel.** The failure of any officer or employee of the City to perform any official duty imposed by this Code will not subject the officer or employee to the penalty imposed for violation unless a penalty is specifically provided for such failure.

Subd. 5 **Other Remedies.** In addition to the remedies set out above in this Subsection, the City may exercise, with or separately, from such remedies and at the

same or separate times, all and any legal and equitable remedies then available to the City by this Code or State Law to enforce this Code, or to recover any fees, charges or expenses owed to City pursuant to this Code, including, without limitation, injunction and the penalties and remedies in any provision incorporated into this Code by reference as provided by Subd. 8 of this Subsection.

Subd. 6 Costs of Enforcement. The person or persons violating this Code shall be jointly and severally liable for all fees or costs incurred by the City in enforcing this Code, or in collecting any fees, charges or expenses, including interest, owed to the City, including attorney's fees. Interest on such fees and costs, from the dates incurred until paid, shall be charged at a rate equal to the lesser of (i) the highest interest rate allowed by law, or (ii) two percentage points in excess of the reference rate. Such person or persons shall also be jointly and severally liable for all costs of collecting such fees, costs and interest, with interest from the dates incurred until paid, at the same rate as is payable on such fees or costs. Reference rate shall mean the rate publicly announced from time to time by First Edina National Bank or any successor thereto. If such bank, or its successor, ceases announcing its rate publicly, reference rate shall mean the interest rate charged from time to time by such bank, or its successor, on 90-day unsecured business loans to its most credit-worthy customers.

Subd. 7 Permits, Licenses and Registrations. In addition to other remedies available to the City, the City may revoke or suspend, pursuant to the provisions of Section 160 of the Code, any permit, license or registration when the holder has violated or failed to comply with any provision of this Code which applies to the permit, license or registration which is the subject of the suspension or revocation.

Subd. 8 Incorporated Law. Any code, statute, or other provision, incorporated into and made a part of this code by reference, shall also include and incorporate any penalties and remedies for violations which are a part of such incorporated provision, and the City may enforce such penalties and pursue such remedies in addition to the other penalties and remedies set out or referenced in this Code.

Subd. 9 Interest. All fees, charges and other monies owed to the City pursuant to any provision of this Code, at the option of the City, shall bear interest from the date payable to the City until paid, at the lesser of the two rates set out in Subd. 6 of this Subsection.

100.10 Adopting Ordinance. The ordinance of the City initially adopting this Code is a part of this Code.

100.11 Background Checks. The purpose of this Section is to authorize the City of Edina acting through the Police Department to access public data in the Bureau of Criminal Apprehension's Minnesota computerized Criminal History and to make driver's license history background checks on employees, applicants for employment, volunteers and applicants for the following City licenses: intoxicating liquor, wine, 3.2 malt liquor, refuse haulers, tobacco, peddler, charitable gambling, solicitor and massage. The City may conduct comprehensive background investigations, including but not limited to accessing data through other automated and non-automated sources and contacting references. Before the City seeks access to restricted private data, the person must authorize the Police Department in writing to undertake the investigation

and to release the information to the City Manager, and other City staff as appropriate. If the identity of the employee or applicants is in questions, verification shall be sought by fingerprint analysis. Should the City reject an applicant's request for employment due, partially or solely, to the applicant's prior conviction of a crime, subject to the exception set forth in Minnesota Statutes Section 364.09, the City Manager shall notify the applicant in writing of the following:

- A. The grounds and reasons for the denial;
- B. The applicable complaint and grievance procedure set forth in Minnesota Statutes Section 364.06;
- C. The earliest date the applicant may reapply for employment; and
- D. All competent evidence of rehabilitation will be considered upon reapplication.

The City may periodically conduct a driver's license inquiry upon employees or volunteers where possession of a valid driver's license is a qualification of the position.

History: Ord 1 and Ord 101 codified 1970; Amended Ord 2011-04; 04-05-2011

Reference: M.S. 412.231, 412.871, 631.48

Cross Reference: Section 160; Subsections 115.09, 115.10